

JAN 29 2016

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JARRETTE SAUNDERS,  
Petitioner,

v.

BRENT BARBOUR,  
Respondent.

) Civil Action No. 7:15-cv-00693  
)  
)

) MEMORANDUM OPINION  
)

) By: Hon. Michael F. Urbanski  
) United States District Judge

Jarrette Saunders, a Virginia inmate proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, naming the attorney Petitioner had hired to defend him from state criminal charges as the sole respondent. Petitioner's requested relief – to have the attorney refund \$2,000 in payments – does not fall within the scope of habeas relief. See, e.g., Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). The court declines to construe the petition as a complaint pursuant to 42 U.S.C. § 1983 because an attorney does not “act under color of state law” while representing a criminal defendant. See, e.g., West v. Atkins, 487 U.S. 42, 48 (1988); Deas v. Potts, 547 F.2d 800 (4th Cir. 1976). Accordingly, the court lacks jurisdiction to adjudicate this matter, and Petitioner's claims are dismissed without prejudice. See, e.g., 28 U.S.C. §§ 1331, 1332, 1367(c); North Carolina v. Ivory, 906 F.2d 999, 1000 n.1 (4th Cir. 1990).

ENTER: This 29<sup>th</sup> day of January, 2016.

*/s/ Michael F. Urbanski*

United States District Judge